UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,568	11/20/2003	Craig Hansen	43876-152	6048

7590   12/05/2006

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EXAMINER
COLEMAN, ERIC

ART UNIT	PAPER NUMBER
2183	

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/716,568	HANSEN ET AL.
	Examiner	Art Unit
	Eric Coleman	2183

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 September 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 14-26 are directed to a computer readable medium having instructions that cause a computer to perform operations. The disclosure of the instant application discloses a computer readable medium comprising a transmission medium. Claims 27-39 are directed to a computer data signal embodied in a transmission medium the computer data signal having instructions that cause a computer to perform operations. These claims are directed to a medium or signal. A signal is not in any of the statutory classes of invention (namely machine manufacture, composition of matter, process). Note: the transmission of signals via air is a natural phenomenon. The signal is merely energy that is transmitted via a medium. The results or operations attributed of the claimed signal are not realized without use means that are not claimed (namely at least means for some type of receipt and decoding of the signal and means to perform the claimed operations). The instructions are not stored on a medium and that would provide access by a processor for properly timed operation to perform the claimed operations. The instructions are not embodied in a manner so as to be tangible. The instructions are merely portions of a medium or signal and these are not embodied so as to be tangible. Therefore the claims are not statutory (e.g., see MPEP 706.03(a)).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-13 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-13 of copending Application No. 10/716561. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: claim 1 of the instant application and claim 1 of 10/716561 are presented side by side below:

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1. A data processing system comprising: (a) bus coupling components in the data processing system (b) an external memory coupled to the bus; (c) a programmable microprocessor coupled to the bus and capable of operation independent of another host processor , the microprocessor comprising: a data path; and external interface operation to receive data from an external source and communicate the received data over the data path; cache operable to retain the data communicated between the external interface and the data path; a register file coupled to the data path	1. A programmable processor comprising:

a data path; an external interface operable to receive data from an external source and communicate the received data over the data path; a cache operable to retain data communicated between the external interface and the data path; a register file coupled to the data path and containing a plurality of registers; |

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And containing a plurality of registers;
and an execution unit coupled to the
data path, the execution unit
configurable to perform group instruction
that operates on a plurality of data
elements in partitioned fields of a
register to produce a concatenated
result, the execution unit further
configurable to execute: (i) an aligned
instruction operable to copy data
according to an aligned memory
address, the first data having a data
width specified as a fixed value by the
aligned instruction, the aligned memory
address being one of a plurality of
memory addresses regularly spaced at
alignment boundaries separated by a
data width; and (ii) an unaligned
instruction operable to copy second data
according to an unaligned memory
address, the second data having the

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an execution unit coupled to the data
path, the execution unit configurable to
perform a group instruction that
operates on a plurality of data elements
in partitioned field of a register to
produce a concatenated result, the
execution unit further configurable to
execute: (i) an aligned instruction
operable to copy first data according to
an aligned memory address, the first
data having data width, the data
specified as a fixed value by the aligned
instruction, the aligned memory address
being one of a plurality of memory
addresses regularly spaced at alignment
boundaries separated by the data width;
and ; an unaligned instruction operable
to copy second data according to an
unaligned memory address, the second
data having the data width

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Data width, the data width specified as a fixed value by the unaligned instruction, the second data being permitted to cross an alignment boundary of the data width, the unaligned memory address being a memory address that is not constrained to be one of the plurality of memory addresses regularly spaced at alignment boundaries separated by the data width.

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The data width specified as a fixed value by the unaligned instruction, the second data being permitted to cross an alignment boundary of the data width the unaligned memory address being a memory address that is not constrained to be one of the plurality of memory addresses regularly spaced at alignment boundaries separated by the data width.

The side by side display of the corresponding claims in the instant application and

SN10/716561 show that the claims are the same except for inclusion the processor

being implemented as a microprocessor that is coupled to an external bus and an

external memory that the microprocessor is capable of operating independently of

another processor. However the Examiner contends that one of ordinary skill would

have been motivated to implement the 10716561 processor as a microprocessor to

reduce system size and cost as was well known in the art at the time of the claimed

invention. Also one of ordinary skill would have been motivated to couple the processor

of SN 716561 to a external memory bus at least to provide access to large amount of

data and programs for processing providing more flexibility as to what program and data

can be processed. As to the capability of the processor to operate independently of

another processor clearly one of ordinary skill would have been motivated to implement

the claimed processor for processing with the ability to operate independently at least to

free the a host of control responsibilities and to take advantage of the processing

capabilities of conventional processors.

As to the limitations of claims 2-13 each of the claim 2-13 is word for word that same as

the corresponding claims 2-13 in SN 10/716561. Consequently, each of these claims in

the instant application are directed to the same inventive concept as the corresponding

claims in SN 10/716561.

Furthermore, there is no apparent reason why applicant would be prevented from

presenting claims corresponding to those of the instant application in the other

copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA

1968). See also MPEP § 804.

Response to Arguments

Applicant's arguments with respect to claims 1-39 have been considered but are

moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Eric Coleman whose telephone number is (571) 272-

4163. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eddie Chan can be reached on (571) 272-4162. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERIC COLEMAN
PRIMARY EXAMINER